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SUBJECT: MARINE CASE UPDATE 9/22/06

REF: MANILA 3919 AND PREVIOUS

1. The trial of four Marines continued the week of September 18 with testimony from forensic obstetrical and gynecologist expert Dr. Teresita Sanchez, who testified that the injuries sustained by the complainant do not suggest rape. SSgt Chad Carpentier followed and testified that his first impression of the complainant was that she was a "professional preying on the vulnerability of Smith," and that she seemed in full control of herself. He denied that she was physically removed from the van and pointed out that he did not pay attention to any activity in the back of the rental van because he was still looking for two more of his men. LCpl Keith Silkwood and LCpl Dominic Duplantis also testified and corroborated both LCpl Smith's and SSgt Carpentier's story.

2. The relationship between the government prosecution team and the complainant and her private attorney remains rocky after the complainant and her family publicly criticized the prosecution's performance. The complainant sent a letter to Philippine Department of Justice Secretary Raul Gonzalez requesting that four of the five prosecutors on the team be replaced. According to the complainant and her attorney, the prosecution team tried to bully her and her family into accepting a settlement on the case. Senior State Prosecutor Emelie delos Santos denied such a conversation took place and labeled the complainant and her family "liars" and "ingrates." Secretary Gonzalez turned down the family's request to replace the prosecution team but did ask the National Bureau of Investigations to look into allegations that prosecutors pressured the complainant to accept a settlement. The complainant and her family did not attend the proceedings this week.

3. SSgt Carpentier gave an email interview to the Philippines News Agency (PNA) on September 19 where he was quoted as saying that he was "pleased with the way the proceedings have gone so far." He praised LCpl Smith's testimony as "honest and accurate..." and noted the difference "between a witness that is speaking on the facts and (is) honest, vice someone trying to remember rehearsed testimony." SSgt Carpentier quashed rumors of any settlement talks, "(I) can assure you they did not originate from the defense... (w)e did nothing wrong and will not entertain any talk of settlement." He speculated that the current, strained relationship between the prosecution and the complainant are "based on frustration...that our side of the story is finally being heard." SSgt concluded by saying, "(t)his case has not given me a bad taste for the Philippines; I don't blame the Philippines for this happening to me." (SSgt Carpentier did not coordinate in advance with Embassy on this interview, despite being advised of Embassy policy for all USG employees to do so.)

4. Current U.S. Embassy public affairs talking points on this case remain unchanged from last week:

- This has been an emotional and difficult case for everyone involved.

- It is the principle of Philippine and American law that anyone accused of a crime is presumed innocent until proven guilty. The U.S. is committed to seeing that justice is served, through a fair and impartial process that can provide for a just outcome.

- The U.S. has cooperated with Philippine authorities in accordance with the Visiting Forces Agreement since day one. The case is being tried by a Philippine judge under Philippine jurisdiction.

15. Mission continues to provide security, citizen services, and other support to the defendants. Personnel from III MEF, JUSMAG, the Regional Security Office (RSO), and the Consular Section will continue to attend all court sessions. RSO remains pleased with the extent and quality of security support provided by the mayor's office and police department. The Consular Section continues to respond to family member inquiries.

KENNEY